

August 10, 2018

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington DC, 20460

RE: Asbestos, Significant New Use Rule
Docket ID #: EPA-HQ-OPPT-2018-0159

Dear Acting Administrator Wheeler:

We write on behalf of the American Public Health Association's (APHA) Occupational Health and Safety (OHS) and Environment (ENV) Sections. APHA is a diverse community of public health professionals who champion the health of all people and communities. APHA's OHS and ENV Sections were established in 1914 and 1911, respectively, and are two of the oldest specialty groups in the association. Our members include epidemiologists, toxicologists, industrial hygienists, healthcare providers, educators, labor representatives and workers, lawyers, and others with expertise in practices and policies to prevent work-related and environment-associated injury, illness, disability, and death. We are writing to provide comments on EPA's proposal for a Significant New Use Rule for asbestos (83 *Federal Register* 26922 (June 11, 2018)).

We strongly oppose any and all new uses of asbestos and any resumption of uses that have been discontinued. In order to protect public health and prevent asbestos-related diseases, the EPA should not encourage, invite, authorize, or approve any new uses of asbestos, the reintroduction of phased-out uses or the import of any products that contain asbestos. In 2009, APHA adopted a policy statement calling for a ban on the manufacture, sale, export, and import of asbestos and asbestos-containing products and to adopt regulations to ensure that asbestos-containing materials (e.g., in homes and buildings) be identified and managed to eliminate exposure and prevent disease.¹

EPA in 1989 issued a rule under section 6(a) of the Toxic Substances Control Act (TSCA) prohibiting manufacture, importation, processing or distribution in commerce of asbestos in almost all products.² However, despite the comprehensive risk analysis supporting the rule,

¹ American Public Health Association. Policy Statement No. 20096: Elimination of Asbestos.

² Asbestos: Manufacture, Importation, Processing, and Distribution in Commerce Prohibitions (54 FR 29460, July 12, 1989) (FRL-3476-2).

the Fifth Circuit Court of Appeals overturned the ban of most of the affected products in 1991 for reasons unrelated to the dangers of asbestos.¹ The asbestos court decision became a poster child for the TSCA's failings and led Congress to strengthen the law significantly in 2016.

These amendments to TSCA provide the best opportunity in decades to address the significant cancer and non-cancer risk for individuals exposed to asbestos. We urge EPA to use its full authority under the law to ban asbestos based on a complete evaluation of the risks of current and former products and exposures. We disagree with any policy that allows the continued manufacturing, importing, or processing of bulk asbestos or asbestos-containing materials. We have been concerned that EPA has omitted important exposure pathways and endpoints from its risk evaluation and have expressed these concerns in comments to EPA, including those on asbestos.

There is overwhelming consensus in the scientific community that there is no safe level of exposure to asbestos.^{2,3,4,5} Specifically, asbestos causes mesothelioma and cancer of the lung, larynx, and ovary. Exposure to asbestos is also strongly associated with cancer of the pharynx, stomach, and colorectum.³ Moreover, as noted by the World Health Organization:

Bearing in mind that there is no evidence for a threshold for the carcinogenic effect of asbestos, including chrysotile, and that increased cancer risks have been observed in populations exposed to very low levels, the most efficient way to eliminate asbestos-related diseases is to stop using all types of asbestos.⁵

Thirty years ago, EPA's comprehensive risk analysis on asbestos established the foundation for the regulation that would have phased-out nearly all use of asbestos. Today, the evidence of adverse health effects from exposure to asbestos is even more robust. There is no safe level of exposure. Asbestos presents an unreasonable risk of injury and all use should be banned permanently. As noted in our previous comments to EPA and in comments from other public health experts, asbestos-containing materials, including those in existing building materials, should be addressed by EPA in its risk evaluation pursuant to the 2016 amendments to TSCA.

¹ *Corrosion Proof Fittings v. EPA*, 947 F.2d 1201 (5th Cir. 1991).

² National Institute for Occupational Safety and Health. (2017) Current Intelligence Bulletin 68. NIOSH Chemical Carcinogen Policy. Cincinnati, OH: U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention, Publication No. 2017-100.

³ IARC (2012) IARC Monographs—Arsenic, Metals, Fibres, and Dusts, Volume 100 C. A Reviews of Human Carcinogens. IARC Monographs on the Evaluation of Carcinogenic Risks to Humans. International Agency for Research on Cancer, World Health Organization.

⁴ Collegium Ramazzini. (2015). The Global Health Dimensions of Asbestos and Asbestos-related Diseases. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5356970/>

⁵ World Health Organization (2014). Chrysotile Asbestos. http://www.who.int/ipcs/assessment/public_health/chrysotile_asbestos_summary.pdf

To be clear, EPA's proposal for a Significant New Use Rule (SNUR) for asbestos is not a ban on asbestos but a notification requirement. Upon learning of a new use, EPA may or may not ban or restrict it. Because the hazards of asbestos are serious and well-established, a SNUR is not a suitable or sufficient intervention to address the risk of exposure to asbestos. It is contrary to public health to permit any new uses of asbestos, including the reintroduction of use of asbestos that has been discontinued. Therefore, we strongly urge EPA to address all discontinued uses in its risk evaluation, conclude that they present an unreasonable risk and ban them permanently. If EPA issues a SNUR, it should simply be as a stop-gap measure to make sure that any new use is identified while the EPA rulemaking and follow-up regulatory actions are underway.

In addition to opposing the SNUR, we want to comment on the information contained in EPA's notice. The agency lists eight conditions of use for which the SNUR would not apply. They are listed in the following table:

	Proposed SNUR would <u>not</u> apply to the following uses:	Substantive Evidence of Current Condition of Use
a	Raw chrysotile asbestos for chlorine and sodium hydroxide production	Yes
b	Asbestos sheet gaskets for use in titanium dioxide production	Yes
c	Asbestos brake blocks for use in oil field equipment	Yes
d	Aftermarket automotive brakes/linings	No
e	Other vehicle friction products	No
f	Cement products	No
g	Other gaskets and packing	No
h	Woven products	No

EPA provides evidence of current conditions of use for only three of the eight applications:

a) Raw bulk chrysotile asbestos for chlorine and sodium hydroxide production. Manufacturers in the chloralkali industry, including Olin Corporation and Axiall Corporation, confirm that they import chrysotile asbestos to fabricate diaphragms for use in chlorine and sodium hydroxide production.⁶

⁶ See: EPA, Office of Chemical Safety and Pollution Prevention. "Preliminary Information on Manufacturing, Processing, Distribution, Use, and Disposal: Asbestos," February 2017, at page 4: "For the 2016 Chemical Data Reporting (CDR) period, two companies reported importing asbestos in 2016. These companies, Axiall

b) Asbestos sheet gaskets for use in titanium dioxide production.

Chemours and Branham Corporation reported to EPA on their production and use of asbestos gaskets in the manufacture of titanium dioxide.⁷

c) Asbestos brake blocks in oil field equipment.

American Friction met with EPA to provide information on their import and distribution of asbestos brake blocks for use in draw-works for the oil industry.⁸

For five of the eight uses, EPA provides NO substantive evidence of current use. The agency acknowledges the lack of evidence in the “Economic Analysis for the Proposed Significant New Use Rule for Asbestos”:

“EPA has not identified any firm manufacturing, importing, or processing asbestos (including as part of an article) for the uses listed above.”⁹

EPA indicates its reason for including the five is consultation with USGS.

“USGS believes that the asbestos-containing products that continue to be imported include ...asbestos brake linings, knitted fabrics (woven products), asbestos rubber sheets (i.e., sheet gaskets) and potentially asbestos cement.”⁹ [emphasis added]

As noted by EPA, all new uses of asbestos, including reintroduction of asbestos and asbestos-containing materials that have discontinued, will significantly increase the volume of manufacturing, importing, and processing of asbestos. New uses of asbestos will increase the public’s risk of developing asbestos-related diseases.¹⁰

We agree with EPA that even when asbestos is contained in a product or article, it has the potential to become friable.¹¹ Recognizing the potential friability of asbestos, we oppose any and all new uses of asbestos and believe EPA should determine that any use of asbestos presents an unreasonable risk of injury and should be banned. Mining of asbestos in the US, which is now permitted, should be banned as well.

We urge EPA to require exporters of asbestos-containing articles to comply with TSCA Section 12(b) and the regulations at 40 CFR Part 707, Subpart D. We disagree with EPA’s proposal to exempt exporters of asbestos-containing articles from TSCA’s export notification requirements. As EPA acknowledges in the proposed SNUR:

Corporation and Olin Corporation, belong to the chloralkali industry.” (Available at: EPA-HQ-OPPT-2016-0736-0005)

⁷ See EPA memorandum on a March 30, 2017 meeting with representatives of the American Chemistry Council, Chemours, and Branham Corporation concerning the use of asbestos gaskets. (Available at: EPA-HQ-OPPT-2016-0736-0119)

⁸ See EPA memorandum on an October 20, 2017 teleconference with American Friction. (Available at: EPA-HQ-OPPT-2016-0736-0118)

⁹ EPA. Economic Analysis for the Proposed SNUR for Asbestos. May 2018.

¹⁰ 83 *Federal Register* 26927 (June 11, 2018).

¹¹ 83 *Federal Register* 26925 (June 11, 2018).

“During use and over time, non-friable asbestos has the potential to become friable. ...Testing has shown that non-friable asbestos-containing material can become friable during use such as cutting, crumbling, and tearing, and as a result of such use, asbestos fibers can be released into the air.”¹²

Give the significant cancer risk associated with exposure to asbestos, it is appropriate and necessary for the agency to require exporters of asbestos-containing articles to comply with TSCA Section 12(b) and the regulations at 40 CFR Part 707, Subpart D. EPA provides no explanation or justification for exempting exporters from the requirements of 40 CFR Part 707, Subpart D.

The U.S. Census Bureau reports that 47 tons of asbestos minerals were exported in 2012; 27 tons in 2013; 279 tons in 2014; 517 tons in 2015; and 980 tons in 2016.¹³ Receiving countries and their citizens must be informed by the U.S. government that asbestos-containing materials are entering their nation.

On behalf of the American Public Health Association’s (APHA) Occupational Health and Safety (OHS) Section we reiterate that the 2016 amendments to TSCA provide the best opportunity in decades to address the significant cancer risk for individuals exposed to asbestos. We urge EPA to use its full authority under the law to ban asbestos. We disagree with any policy that allows the continued manufacturing, importing, or processing of bulk asbestos or asbestos-containing materials.

Sincerely,

Homero Harari, ScD
Chair
Occupational Health and Safety Section

Jyotsna Jagai, MS, MPH, PhD
Chair
Environment Section

Mary Miller, RN, MSN
Co-Chair, Policy Committee
Occupational Health and Safety Section

Celeste Monforton, DrPH, MPH
Co-Chair, Policy Committee
Occupational Health and Safety Section
Correspondence: cmonfort@gwu.edu

¹² RE: Asbestos, Significant New Use Rule, 83 Federal Register 26925

¹³ USGS. Mineral Commodity Summaries, 2017.

<https://minerals.usgs.gov/minerals/pubs/mcs/2017/mcs2017.pdf>